

TITLE 1: GOVERNMENT
DIVISION 9: MISCELLANEOUS PROVISIONS

§ 9104. Procedure for Adoption of Regulations.

(a) Prior to adoption, amendment or repeal of any regulation, the agency shall:

(1) Give at least 30 days' notice of its intended action by publication in the Commonwealth Register and by posting in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. The notice shall include:

(i) A statement of either the terms or substance of the proposed regulation or a description of the subjects and issues involved;

(ii) Reference to the authorities under which that action is proposed; and

(iii) The time when, the place where, and the manner in which interested persons may present their views.

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, in writing. In all proceedings under this section, opportunity for oral hearing must be granted if requested by the Commonwealth Legislature or one of its committees, or a government subdivision or agency. Hearings afforded pursuant to this provision shall be conducted in accordance with 1 CMC § 9109. The agency shall consider fully all written and oral submissions respecting the proposed regulation. Upon adoption of a regulation, the agency, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(3) Obtain the approval of the Attorney General pursuant to 1 CMC § 2153(e).

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section. A judicial proceeding for a declaratory judgment to contest any regulation on the ground of noncompliance with the procedural requirements of this section must be commenced within one year from the effective date of the regulation.

Source: 17 TTC § 4, modified; amended by PL 10-50, § 3(b).

Commission Comment: For other provisions concerning notice requirements for meetings of governing bodies of public agencies, see 1 CMC § 9901 et seq.

PL 10-50 took effect on March 19, 1997. PL 10-50, § 3(b) created a new subsection (a)(3). According to PL 10-50, § 1:

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Section 1. Findings and Purpose. The Legislature finds that there is currently no agency charged with the duty to review for legal sufficiency rules and regulations promulgated by various government agencies. Pursuant to Public Law 1-8, the Attorney General's responsibility is limited to publication and compilation of rules and regulations. The result of this limitation of responsibility has been the occasional publication of rules and regulations which do not conform to the constitutional or statutory authority on which they are based. In order to avoid such oversight in the future and in order to ensure that the future regulations are in conformity with the Constitution and laws of the Commonwealth, it is the purpose of this legislation to charge the office of the Attorney General with the legal review of all rules and regulations to be promulgated by any governmental authority in the Commonwealth.

Executive Order 97-03, which was signed on November 13, 1997, transferred the subject duty of the Attorney General set forth in 1 CMC § 2153(b) and related duties and responsibilities of the Registrar of Corporations (set forth in 4 CMC §§ 4201-4204) to the Department of Commerce. As of March 31, 2003, no transfers had taken place. EO 97-03 also called for the substitution of "Registrar of Corporations" or "Registrar" with "Attorney General" in 1 CMC §§ 9101-9115.